

Kentucky Transportation Cabinet
Goal Setting Methodology
Federal Fiscal Year (FY) 2014

(A). Overall Goal for DBE Participation

As outlined in 49 CFR Part 26, Section 26.45(b) of the Disadvantaged Business Enterprise (DBE) regulations, the Kentucky Transportation Cabinet (Cabinet) has based its goal on demonstrable evidence of the availability of ready, willing and able DBE's relative to all businesses ready, willing and able to participate on DOT-assisted contracts. The Cabinet expects to meet the 8.5 percent overall goal by obtaining 3.5 percent from race neutral means and 5 percent participation through race conscious means.

(B). Step One:

**Base Figure for the Relative Availability of
Disadvantaged Business Enterprises (DBE)s**

49 CFR Part 26.45 Section (c) states that Step 1 must begin by determining a base figure for relative availability, and that any percentage figure derived is considered a basis to begin examining all evidence available within the jurisdiction. The approach taken by the Cabinet to determine relative availability is the directory and census data approach. This approach is the most appropriate, because it is based on local market conditions and allows for the state requirement of prequalification to be considered.

The approach using the goal of another recipient is not appropriate because it is rarely used by recipients of the Federal Highway Administration, like this Cabinet. Also, to apply this approach the other recipient's market must be the same or similar. The Cabinet cannot use the disparity or availability study approach, because the Cabinet does not have such a study. The Cabinet did not use the bidder list approach because the Cabinet is taking steps to improve the quality of the data reported by the bidders. The other approaches listed within the 49 CFR Part 26 are therefore not the best or most appropriate for the Cabinet to use, and the directory and census data approach was used.

The Cabinet has defined its contracting market as being *statewide* encompassing its 120 counties. According to the most current census data, there are 3,312 establishments across the state conducting business in the NAICS codes in which the Cabinet seeks participation. All such firms must be determined to be financially qualified and have professional experience to do business with the state before submitting bids on any project issued by the Cabinet in accordance with KRS Section 176.140 and its regulations. Of those establishments a total of (682) have demonstrated that they are ready, willing and able to perform by meeting the states requirements outlined in KRS Section 176.140 for prequalification. Included in that number, (98) DBEs have demonstrated that they too are ready, willing and able to participate by meeting the states requirements outlined in KRS Section 176.140 for prequalification. In addition to that we have identified an additional (60) firms not yet certified. These numbers include consultants, appraisers, contractors and subcontractors.

Considering the list of ready, willing and able companies, the formula becomes:

Considering the three categories of contracts (Construction, Professional Services and Right of Way/Utilities), the formula becomes:

Step One figure =
$$\frac{\text{Pre-qualified DBE's, certified DBE's and (DBE's not yet certified)}}{\text{Number of all pre-qualified firms}}$$

The resulting calculation is as follows:

$$\frac{158}{682} = 23\% \quad \text{Base Figure}$$

(C). Step Two: Adjustment to Base Figure

As outlined in Section 26.45(d) once the baseline figure is calculated, it is necessary to examine the available evidence in the local market to determine what adjustment, if any, is needed. One

type of evidence that must be examined is the current capacity of DBEs to perform work in the contracting program, as measured by the volume of work DBEs have performed in recent years. This is done to ensure that the goal accurately reflects the level of participation the Cabinet would expect from certified DBEs if discrimination were not a factor.

The calculations to adjust the Step One base figure are as follows:

1. Number of pre-qualified and certified DBE firms and (DBE's not yet certified) who *do* not participate
Number of all pre-qualified DBE firms

$$108/158 = .68 = 68\%$$

2. Multiply the base figure by the percentage of DBEs not involved in the program (derived from calculation #1 above). This product represents the percentage of non-active DBEs that were included in the Step One base figure.

$$23\% \times .68 = 14.5\%$$

3. Subtract the percentage of non-active DBEs (14.5%) in calculation #2 above from the Step One base figure (23%). This reduces the initial Step One base figure to reflect an attainable goal.

$$23\% - 14.5\% = 8.5\%$$

Other types of evidence that must be considered are evidence of a disparity study and if the base figure of another recipient was used. The Cabinet has no evidence from disparity studies conducted anywhere within this jurisdiction nor has the Cabinet used another recipient's base figure.

The Cabinet has also considered evidence from related fields that affect the opportunities for DBEs to form, grow, and compete. Such evidence included statistical disparities in the ability of DBEs to get financing, bonding, and insurance required for participation in the Cabinet's program, and data on employment, self-employment, education, training, and union apprenticeship programs. The evidence has revealed that under the current economic conditions

and fiscal restraint, that DBEs, as well as other businesses have had difficulty obtaining access to capital needed for financing, bonding, and insurance. Employment data revealed that Kentucky has 7.9% unemployment, and a low number for self-employment. Of those firms within Kentucky, a very small number are minority-owned. Education and training data evidenced that educational attainment is also low, and that union apprenticeship programs did better than non-union contractors and association programs. After a thorough review and consideration, the Cabinet found that this evidence did not cause for further adjustment to the overall goal. This evidence demonstrates that Kentucky has some challenges overall in education and training, and employment, and the DBE community is included within this environment.

The overall goal of the Cabinet is reflective of the state resources available due to education and training, employment and past participation of DBEs. The Cabinet looked at the ready, willing and able DBEs ability to perform based on past performance. This represents all awards to DBEs in the past five fiscal years. Combining the DBE and Contractor data from above with the chart average, we reached the adjustment for step two. We attempted to weight the data but the project data needed to do the weighting is not available.

Overview

The Kentucky Transportation Cabinet (Cabinet) has established an overall disadvantaged business enterprise (DBE) goal for fiscal year 2014 (October 1, 2013 – September 30, 2016) as 8.5 percent. The Cabinet expects to meet the 8.5 percent overall goal in obtaining 3.5 percent from race/gender-neutral means and 5 percent participation through race/gender-conscious means on contract goals that will be established on U.S.D.O.T.-assisted contracts. The goal was calculated using the steps outlined above. We adjusted for the non participating DBE's from the

original base figure, due to the current and planned increase in construction activity in the state of Kentucky and Southern Indiana. This is highlighted by the Bi State project we are currently involved in. The majority of the DBE's who participated this period are currently under contracts, have pending contracts or are bidding on contracts for this four year Bridge project. Looking at the upcoming Cabinet projects and the identified projects in the region DBE availability and capacity are a real concern.

While we did not meet our goal during this period for some of those very same reasons we are taking steps to increase DBE supportive services in an attempt to provide targeted services that will assist the DBE's to perform better and aid us in reaching the goal. The Cabinet chose to forgo use of the Median as it dropped the proposed goal to an unacceptable level. This goal and the methodology are consistent with the requirements of 49 CFR 26.45